

July 7, 2006

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: MB Docket No. 03-15  
KATC-DT (Lafayette, Louisiana)  
Facility ID No. 33471  
Request for Waiver of July 1, 2006 Replication/Maximization Deadline

Dear Ms. Dortch:

KATC Communications, Inc. ("KATC"), permittee of KATC-DT, Lafayette, Louisiana (the "Station"), by its attorneys and pursuant to the Commission's *Public Notice*,<sup>1</sup> hereby respectfully requests waiver of the Commission's July 1, 2006 replication/maximization interference protection deadline. Due to circumstances beyond KATC's control, the Station cannot implement its certified facilities prior to the deadline as the owner of the tower on which KATC long had intended to place its DTV antenna now will not approve such construction.

**Construction of Certified Facilities Prevented**

KATC always had planned to construct its DTV facilities on a tower owned by another local television station. Indeed, almost five years ago, KATC submitted a construction permit application proposing such facilities,<sup>2</sup> and, in November 2004, KATC certified on its Form 381 Pre-Election Certification to constructing the same.<sup>3</sup> Despite prior assurances from the tower owner that KATC could construct the Station at the site, however, the owner recently informed

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<sup>1</sup> See *DTV Channel Election Issues—Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, Public Notice, DA 06-1255 at 5 (rel. June 14, 2006) ("*Public Notice*").

<sup>2</sup> FCC File No. BMPCDT-20011023AAJ.

<sup>3</sup> FCC File No. BCERCT-20041104ATH.

KATC that the Station could not be so constructed, forcing KATC at this late date to construct its own tower.<sup>4</sup>

Since the tower owner informed KATC of its decision, KATC has diligently pursued its alternative plan. In April 2006, KATC selected a site to build a new DTV tower and accordingly sought an FAA Determination of No Hazard. On May 11, 2006, KATC retained a broadcast tower consultant to complete FCC Form 620 to comply with Section 106 of the National Historic Preservation Act of 1966.<sup>5</sup> The consultant has contacted the Louisiana State Historic Preservation Office and all necessary Indian tribes. KATC expects to complete the Section 106/FCC Form 620 process within the next two weeks.

Once KATC has obtained the necessary Section 106 approvals, it promptly will submit an application for a new FCC tower registration and an FCC construction permit to specify the new DTV tower site. KATC has retained Doty Moore/Stainless, LLC ("Doty Moore") to construct its new tower and Doty Moore tells KATC that it will complete construction approximately 8 months after KATC receives an FCC construction permit. In particular, Doty Moore estimates that the construction schedule will proceed as follows:

<u>Event</u>	<u>Estimated Completion Date</u>
Tower erection	Three months after FCC grant
Complete construction of transmitter building	Four months after FCC grant
Antenna and line installation	Six months after FCC grant
Proof of performance and testing	Seven months after FCC grant
Commence operations	Eight months after FCC grant

#### **Satisfaction of Waiver Standard**

KATC submits that this waiver request satisfies the standards set forth in the *Public Notice*. For reasons beyond its control, the Station cannot complete construction of its certified facilities as the tower owner at the proposed site no longer will permit such construction. In its *Second DTV Periodic Review Report and Order*,<sup>6</sup> the Commission adopted a July 1, 2006 replication/maximization interference protection deadline for all DTV licensees not subject to the July 1, 2005 deadline. The Commission stated that, in cases where a station was unable to meet the applicable deadline due to "circumstances beyond a station's control," it would "grant

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<sup>4</sup> KATC cannot construct digital facilities on the existing KATC-TV tower because it cannot support the required amount of new equipment.

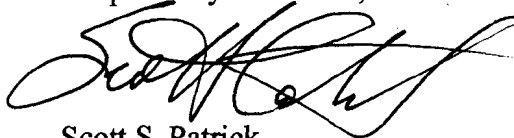
<sup>5</sup> See 16 U.S.C. § 470(f).

<sup>6</sup> Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, 19 FCC Rcd 18279 (rel. Sept. 7, 2004) ("*Report and Order*").

extensions of the applicable replication or maximization interference protection deadline on a six-month basis if good cause is shown.”<sup>7</sup> To receive such a waiver, broadcasters were required to make a showing “similar to that required to obtain a waiver of the DTV construction deadlines.”<sup>8</sup> KATC believes this instant waiver request satisfies these requirements.

Based upon the foregoing, KATC believes that it has shown good cause for the Commission to grant waiver of the July 1, 2006 deadline for the Station. Should any questions arise, please contact the undersigned.

Respectfully submitted,



Scott S. Patrick

cc: Shaun Maher (FCC)

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<sup>7</sup> *Id.*, ¶ 87. See also *Public Notice*.

<sup>8</sup> *Report and Order*, ¶ 87.